

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
DANVILLE DIVISION

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CHRISTOPHER B. JULIAN, et al., \* CIVIL ACTION 4:13-CV-00054  
\* AUGUST 7, 2014 2:58 P.M.

Plaintiffs, \* MOTION HEARING  
\* VOLUME I OF I

vs. \*

JAMES RIGNEY, et al.,

Defendants.

\* \* \* \* \* \* Before:  
\* HONORABLE JACKSON L. KISER  
\* UNITED STATES DISTRICT JUDGE  
\* WESTERN DISTRICT OF VIRGINIA

APPEARANCES:

For the Plaintiffs: CHRISTOPHER B. JULIAN, PRO SE  
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Proceedings recorded by mechanical stenography,  
transcript produced by computer.

1 (Court convened at 2:58 P.M.)

2 THE COURT: Good afternoon, folks. We have three  
3 matters to take up this afternoon. There is a motion for  
4 sanctions by the plaintiff as to Ms. DeCoster, the Court's  
5 show cause order, and the Department of Agriculture's motion  
6 for summary judgment.

7 The first two matters are interrelated, and I'll take  
8 them up first. So the motion for sanctions, Mr. Julian or  
9 Ms. Julian, whoever is going to argue it, I'll hear you now on  
10 that.

11 MR. JULIAN: It was very simple, Judge. The rules  
12 state that she needs to effect service. She failed to effect  
13 service. You left us in a position to make arguments with the  
14 court, having not been served those papers, and you approved  
15 her motion to -- for an extension of time without that paper  
16 ever being served. And then you put us in a position where we  
17 could not argue without jeopardizing our case that those --  
18 the other side of that argument. We couldn't -- we couldn't  
19 jeopardize our case if we had responded with the request that  
20 her failure to effect service allowed us default judgment.

21 THE COURT: All right, sir. Anything further?

22 MR. JULIAN: No, sir.

23 THE COURT: All right.

24 MR. JULIAN: Yes. Actually, I do have one thing  
25 further.

1 THE COURT: All right, sir.

2 MR. JULIAN: Ms. DeCoster is the only one that I see  
3 who has represented herself appropriately.

4 THE COURT: Ms. DeCoster.

5 MS. DeCOSTER: May it please the Court, I would like  
6 to begin by stating that I am aware that plaintiffs should  
7 have been served in accordance with Rule 5. It was an  
8 oversight on my part, but it is our position that it is a  
9 legally excusable oversight.

10 Many courts have excused noncompliance with Rule 5  
11 for good cause. There are multiple factors that these Court's  
12 have looked at; two of the factors, actual notice and implied  
13 consent, when by themselves, have been determined not  
14 sufficient for excusal. However, we have both actual notice,  
15 implied consent, and additional factors, and we believe that  
16 when considering all of those factors together, it makes this  
17 noncompliance excusable.

18 The first factor, Your Honor, is implied consent.  
19 Plaintiffs initiated e-mail contact. They e-mailed me  
20 regarding the filings, so I responded by e-mail, attached the  
21 filings. Plaintiff replied via e-mail to confirm receipt  
22 without objection.

23 The second factor we have is actual notice. As I  
24 stated, plaintiffs did respond via e-mail, confirming receipt  
25 of the documents, and plaintiffs filed a response to the

1 motion.

2 The third factor we have is that plaintiffs filed a  
3 timely response; thus, similar to the *Amenia* case, they were  
4 not prejudiced by service.

5 The fourth factor is that plaintiffs failed to object  
6 in their response or at the hearing. They did not file a  
7 motion for reconsideration, they did not file a motion to  
8 alter or amend; thus, it is our position that, similar to the  
9 *Switzer* case, they waived this objection.

10 The fifth factor is that plaintiffs did in fact  
11 receive proper service on our reply brief as to the motion to  
12 dismiss. In the reply brief, we also moved for dismissal.

13 Finally, Your Honor, I would like to point out that  
14 this mistake was not made in bad faith. It was made in an  
15 attempt to get the documents to plaintiffs as quickly as  
16 possible.

17 Under these factors, it is our argument that the  
18 Court should find good cause and excuse any noncompliance with  
19 Rule 5.

20 In addition, Your Honor, the plaintiffs mentioned  
21 Rule 11 sanctions; however, plaintiffs failed to complied with  
22 the safe harbor provision. They failed to comply because they  
23 failed to serve the motion 21 days prior to filing, and the  
24 motions were filed after the dismissal of our client.

25 In conclusion, Your Honor, we would ask that these

1 motions be denied.

2 THE COURT: Thank you.

3 You get the last word, Mr. Julian, if you care to.

4 MR. JULIAN: Yes, sir, I do.

5 She stated that we had -- we responded in a timely  
6 manner. The only reason we responded was because we received  
7 a Jonesboro [sic] notice from this Court.

8 THE COURT: That's the *Roseboro* notice, not the  
9 Jonesboro notice.

10 MR. JULIAN: Sir?

11 THE COURT: *Roseboro*, not Jonesboro.

12 MR. JULIAN: Yes, sir. Yeah, *Roseboro*. Okay.  
13 *Roseboro*. We received a *Roseboro* notice.

14 THE COURT: That's fine. Courts enter that --

15 MR. JULIAN: That's the only way we would have ever  
16 replied to this, because had we not received that, we would  
17 not have known about it at all, period.

18 THE COURT: But the fact is you did, and you  
19 responded.

20 MR. JULIAN: Yes, sir.

21 THE COURT: In --

22 MR. JULIAN: Also, the fact is the rules state that  
23 we have to agree to electronically be served. We never did.  
24 The rule says that we have to grant that permission  
25 specifically, and we did not.

1 THE COURT: All right. Thank you, sir.

2 Well, to cut to the bottom line, first of all,  
3 Rule 11 is not a proper vehicle on which to challenge a faulty  
4 service of process. Rule 11 is designed to discourage and  
5 prevent intentional misconduct, not negligent acts on the part  
6 of opposing counsel.

7 I accept Ms. DeCoster's explanation as to why service  
8 was not made appropriately; I find that it was not. However,  
9 I also find that the lack of proper service was in no way  
10 prejudicial to the plaintiffs. They responded in a timely  
11 fashion and their response was considered. So I overrule that  
12 motion.

13 Now the more serious thing, Mr. Julian, is your and  
14 your wife's response to the brief that the defendant filed in  
15 opposition to your motion. I think you designated that as a  
16 Reply to Response to Motion for Sanctions.

17 That is the jumping-off point for Court's order to  
18 show cause, and we're here now to hear any statement or any  
19 evidence or any way you care to try to show cause for some  
20 very serious conduct. I think the conduct is outlined in the  
21 order to show cause.

22 MR. JULIAN: Am I here to speak?

23 THE COURT: Sir?

24 MR. JULIAN: Am I here to speak now?

25 THE COURT: Yes.

1 MR. JULIAN: Is it my turn?

2 THE COURT: It's your turn.

3 MR. JULIAN: You say -- first off, let's look at  
4 this -- I want to look at this piece that -- your order to  
5 show cause. It says: "On June 6th, plaintiffs Christopher  
6 and Renee Julian filed their Reply to Response for Motions  
7 [ECF No. 60]. In the filing, they made several scurrilously  
8 [sic] and wholly unsubstantiated allegations about this Court,  
9 including accusing the Court of intentionally waiting to set  
10 Defendants' Motion to Dismiss for hearing."

11 That's actually not accurate, sir. If you go back  
12 and read the statement, that's not what it says. I did not  
13 accuse you of that. It said that it was interesting to note  
14 that --

15 THE COURT: Well, it could be read --

16 MR. JULIAN: -- that there was no hearing made, and  
17 that Ms. DeCoster never requested one, nor did the Court  
18 schedule one.

19 You left us hanging out there for three months, and  
20 then who scheduled the hearing? Not Ms. DeCoster. According  
21 to your local rules, it was her job to require it, and yet you  
22 scheduled the hearing.

23 And that statement is false. I didn't make that  
24 allegation, but you wrote it in this paper.

25 Next, the Court -- "Moreover, plaintiffs accuse

1 me" -- I assume that means you?

2 THE COURT: Yes.

3 MR. JULIAN: -- "of being a criminal, and accuse the  
4 Court of corruption."

5 Would you like to read this statement for us, or  
6 would you like me to read it aloud?

7 THE COURT: I think it's there, you can read it if  
8 you choose to.

9 MR. JULIAN: I would like to, yes, sir.

10 It says: "A corrupt federal agency aided and abetted  
11 by a corrupt federal court is a travesty of justice for  
12 American democracy, an insult to the U.S. judicial system, to  
13 the Constitution of the United States of America, and to life,  
14 liberty, and justice for all. It results in tyranny,  
15 oppression, and absolute despotism of the people, justifying  
16 completely and succinctly the Second Amendment to the  
17 Constitution of the United States. And there is no greater  
18 criminal than the criminal that sits on the bench, robbing  
19 America of its foundations."

20 Excuse me, sir. Did you hear your name in there?

21 THE COURT: No, Mr. Julian.

22 MR. JULIAN: Did you hear me mention this Court in  
23 there?

24 THE COURT: No. You're in this court, and that's  
25 what you're saying. It doesn't take a rocket scientist to



1 figure out what you're referring to, Mr. Julian.

2 MR. JULIAN: Well, what you're saying is, is that  
3 you're making an assumption. I thought the Court was based on  
4 facts.

5 THE COURT: Go ahead, Mr. Julian, finish your  
6 statement. It's about as frivolous as your filings are. Go  
7 ahead.

8 MR. JULIAN: I didn't -- you accused me of vilifying  
9 this Court, but this Court has written a memorandum with lies,  
10 deceit, deception, intentional misrepresentation, and that's  
11 not how I expect to see the scales of justice balanced. I  
12 don't appreciate --

13 THE COURT: You're getting close to being in contempt  
14 of court here, Mr. Julian.

15 MR. JULIAN: You want me to tell the truth, the whole  
16 truth and nothing but the truth, or do you want me to stand up  
17 here and cower down?

18 THE COURT: If you've got any justification other  
19 than your interpretation of these words, I'll be glad to hear  
20 it.

21 MR. JULIAN: I gave you plenty of examples in my  
22 documentation of actual ignoring facts. They are well  
23 documented on the blog that you decided to read the day before  
24 my appeal hit the appellate court.

25 THE COURT: Go ahead.

1 MR. JULIAN: Those documents, they show facts, they  
2 show the truth. So if you want to have a jury and we'll talk  
3 about them all in front of a jury, then fine.

4 You note down here that in the pretrial order filed  
5 in this case, the parties were instructed that it is their  
6 responsibility to set the motions for hearing. Not mine,  
7 Ms. DeCoster's. I wasn't the movant.

8 There are numerous statements within this order  
9 itself that are factually incorrect, and I expect facts and  
10 the truth throughout my case. And it is my civic duty -- as  
11 this entire suit is about accountability and responsibility  
12 for the criminal acts of these individuals, it is my civic  
13 duty -- and you are a civil servant as well -- to hold these  
14 people accountable and responsible for their actions. And  
15 that's all we're seeking to do, and to get the truth out,  
16 because nobody seems to want to hear the truth.

17 That's all. My wife has nothing to do with any of  
18 this.

19 THE COURT: For the record, we will file -- we have  
20 pulled from the Internet the postings that the plaintiffs have  
21 made, and these postings will be filed in the record for  
22 whoever wants to determine what they say. It will be there  
23 available.

24 But I find, Mr. Julian, you have violated -- I could  
25 find you in contempt of court and impose more serious

1 sanctions than I have. But you and your wife signed off on  
2 this rather flaming reply and your response -- I think both  
3 you and your wife signed it -- and therefore come under the  
4 parameters of Rule 11. Signed by Christopher Julian and Renee  
5 Julian, so the sanctions will have to be as to both of you.

6 I find that they're false accusations of criminal  
7 misconduct and ethical misconduct, and the Court will not  
8 tolerate that type of activity.

9 I will impose a monetary sanction because I think  
10 maybe a more severe sanction would be inappropriate, and I  
11 hope that the sanction that I will impose under Rule 11 rather  
12 than under the Court's contempt powers will be sufficient to  
13 deter any future conduct on the part of the plaintiffs.

14 Accordingly, I will assess a \$500 sanction against  
15 you, both of you, jointly and severally, and there will be a  
16 written order to this effect.

17 Do you have any question -- do you want to see the  
18 papers that we pulled off of the Internet, Mr. Julian?

19 MR. JULIAN: No, sir.

20 THE COURT: All right. They will be filed.

21 All right. That brings us to the Department of  
22 Agriculture's motion for summary judgment.

23 Mr. Padmanabhan.

24 MR. PADMANABHAN: Thank you, Your Honor.

25 Your Honor, the only issue left in this case is the

1 Court's review of the final agency decision of the USDA. That  
2 makes this issue especially appropriate for summary judgment,  
3 as the factual record in this case is closed. The Court has  
4 before it the administrative record.

5 In addition, the Court's review in a case under the  
6 APA is very limited and affords great deference to the agency  
7 decision, and this is especially true when it's an agency  
8 interpretation of their own regulation. And this Court should  
9 only overrule such an interpretation when it's plainly  
10 erroneous.

11 In addition, Your Honor, there's a presumption that  
12 the agency decision is fair and correct, and it's the  
13 plaintiffs' burden to overcome that presumption, and the  
14 plaintiffs have not done that in this case.

15 First, as stated in the brief, Your Honor, the agency  
16 concedes that Director Klurfeld's decision is the final agency  
17 decision that is reviewable by this Court.

18 Now, turning to Director Klurfeld's actual decision,  
19 the Consolidated Farm and Rural Development Act implemented  
20 the Farm Ownership Loan Program, which is what's at issue  
21 here.

22 The act provides for -- provides for loans for making  
23 capital improvements but does not define that term. In  
24 addition, the implementing regulations also provides for loans  
25 for making capital improvements, but similarly does not define

1 that term.

2 The agency filled in the gap by devising a handbook  
3 to provide guidance to loan applicants. In that guidebook, it  
4 says that the loans must -- any residence or any building must  
5 adequately meet family needs and be modest in size, cost, and  
6 design.

7 THE COURT: Is there any issue about, whether you  
8 adopt the handbook's version or the IRS's version, any real  
9 dispute about what capital improvement is?

10 MR. PADMANABHAN: I don't think so, Your Honor. I  
11 think this handbook was just providing guidance, more specific  
12 guidance to loan applicants as to what they need to do to  
13 qualify for these loans. And it provided that, like I said,  
14 they need to be modest in size, cost, and design, and  
15 adequately meet a family's needs. Both requirements are  
16 required. And this applies to new construction as well as  
17 improvements to existing buildings.

18 And the only distinction here really between farms  
19 located -- or property located on a farm versus off a farm or  
20 near a farm is the way in which the loan proceeds are to be  
21 used.

22 THE COURT: Well, isn't the plaintiff's house located  
23 on the farm he was applying under?

24 MR. PADMANABHAN: Yes, it is, Your Honor. And like I  
25 said, there's no distinction between being off a farm and on a

1 farm in terms of the modesty in cost, size, and design. It's  
2 only that if it's off a farm, it can be used to improve it; if  
3 it's on a farm, it can be for new construction as long as it's  
4 for a farming purpose. And the agency interpreted that  
5 regulation and said that the requirement of it being modest in  
6 size applies to all structures, whether it be on a farm or off  
7 a farm.

8 And under *Chevron*, under *Chevron* deference, first  
9 under step one, Congress didn't explicitly state -- or didn't  
10 explicitly address the issue directly, so it's left to agency  
11 interpretation under *Chevron* step two. And like I said, the  
12 handbook says exactly what needs to be done for existing and  
13 new construction.

14 And throughout the process, the Julians did not  
15 dispute that their proposed building is not modest in size,  
16 cost, and design. In fact, they spent over \$600,000 of their  
17 own money in attempting to create their dream house. And the  
18 legislative intent in passing these laws was for the  
19 underprivileged farmer or the small farm owner or operator,  
20 not a case such as the Julians.

21 In addition, the house they propose to build is over  
22 4600 square feet, has a two-car garage, a rec room, fitness  
23 area, second master suite, winery, two foyers, a deck, a  
24 screened porch, and a morning porch. One could hardly say  
25 that for a family of three that that's modest in size, cost,

1 or design.

2           Therefore, Your Honor, we believe that the agency  
3 interpretation was correct and was supported by ample evidence  
4 such that their decision cannot be viewed as arbitrary,  
5 capricious, or not in accordance with the law.

6           Thank you, Your Honor.

7           THE COURT: Mr. Julian, your response?

8           MR. JULIAN: Mostly fallacy.

9           THE COURT: Sir?

10          MR. JULIAN: Mostly, it's a fallacy, Your Honor.

11          THE COURT: What's a fallacy?

12          MR. JULIAN: Those statements, because, first off,  
13 these gentlemen never asked us a single question, not one.  
14 They're required to, by their rule books, to ask us questions.

15          THE COURT: Are you talking about the present  
16 counsel?

17          MR. JULIAN: No, sir. I'm talking about the USDA.

18          THE COURT: Oh. All right.

19          MR. JULIAN: These gentlemen and their so-called  
20 handbook that they're relying on requires them to ask us  
21 questions. They skipped all those procedures. They never  
22 asked a single question, number one.

23                 Number two, they didn't --

24          THE COURT: By law, didn't you go through the three  
25 levels of hearings?

1 MR. JULIAN: Yes, sir.

2 THE COURT: And did you show up?

3 MR. JULIAN: Yes, sir.

4 THE COURT: Did you make statements?

5 MR. JULIAN: Yes, sir.

6 THE COURT: Did they not ask questions during that?

7 MR. JULIAN: That's not the point, sir. They're  
8 supposed to ask questions before they ever deny the loan; it's  
9 a requirement. They have required procedures in their  
10 handbook they skipped entirely. You have denied us the  
11 opportunity to produce that evidence both in all of the  
12 administrative hearings and now in this court.

13 They altered the rule after the fact that we had --  
14 after we had already started the house. And it's a  
15 requirement of their rule book, it's required by the appeals  
16 division that they look at when the rule was changed and when  
17 the act occurred that broke that rule.

18 THE COURT: That was argued before the appellate  
19 court, and they turned you down, Mr. Julian.

20 MR. JULIAN: I have not heard anything from the  
21 appellate court.

22 THE COURT: Or maybe it was the ultimate -- the last  
23 hearing officer. That point was made by you before the  
24 tribunal, and it was rejected.

25 MR. JULIAN: No, sir. No, sir, it was not. That's



1 not true. We've never been allowed to present this evidence  
2 to any court or to any hearing.

3           You can't alter the rule after the fact has already  
4 occurred. Are you going to apply the laws to me today because  
5 I broke them a month ago and it just was put in place today?  
6 Is that what you're going to do? Are you going to make me  
7 responsible for a law I broke three months ago because you  
8 passed a law today to say it's illegal? That's what you're  
9 asking with this house.

10           You put me in a situation and say the house is more  
11 than meets my family needs, but that didn't exist when I  
12 started. Not only that, but this whole thing about the house  
13 is just utterly ridiculous, because their rules require them  
14 to ask me -- to work with me if there's another way for us to  
15 be eligible for those loan proceeds.

16           We owned everything: farm, equipment, land,  
17 everything. It was absolutely -- there was a hundred ways to  
18 request that application without ever involving the house, and  
19 they know that.

20           You go back and listen to the hearing tapes, they  
21 mentioned -- how many times did they walk up and say simply,  
22 "If you just come back and ask for labor instead of living  
23 expenses, we can work it out." It's documented in the  
24 administrative record.

25           We didn't come ask for a farm loan to build a house,

1 we never asked for that. And I've got a question for you: If  
2 I wanted a farm loan just to build my house, this "super  
3 house" they're calling it, that was actually designed for my  
4 wife and I to live on the first floor, and my mother to come  
5 live with us, who is now 90 and struggling, who has nobody  
6 living in her house, nobody taking care of her, no money, and  
7 the government just about destroyed everything she had, if we  
8 wanted money for a house, then you tell me why I went to them  
9 in 2009, as documented in the administrative record, looking  
10 for a farm loan when I had a half a million dollars in cash,  
11 \$300,000 worth of real estate paid off, and a \$250,000  
12 mortgage lined up? Why was I looking for a farm loan? To  
13 start a vineyard.

14 I wasn't eligible for a farm loan then. They  
15 required three years of farm experience. How was I supposed  
16 to get it?

17 And then you alter the rule on me after I've already  
18 started, and then you want to apply that to me and not even  
19 give me an opportunity to argue that my house meets my needs.  
20 You totally blocked me from that argument completely by that  
21 decision. That's not due process. That's a violation of due  
22 process.

23 They're not entitled to *Chevron* deference, because  
24 this gentleman back here doesn't know what he's doing. And  
25 that's what this group has given you. They're granting these

1 guys *Chevron* deference in interpretation of a rule that is  
2 factually broken. It's actually incomprehensible because they  
3 changed it.

4 And it's not a statute, it's a guideline in their  
5 handbook. The statute mentions nothing on the size of a -- on  
6 the size of a house, nothing, no restrictions whatsoever on  
7 the use of capital improvements. And the fact that Congress  
8 didn't tell them what a capital improvement was has nothing to  
9 do with defining what capital improvements are. That's  
10 understood worldwide. When you set limits, they're setting a  
11 limitation on a capital improvement, they're not defining what  
12 it is.

13 They're not entitled to *Chevron* deference when  
14 they're talking about a rule that they've changed and they've  
15 given no intermediary time for people who are already in  
16 process to adjust to the changes in their rules.

17 But all that makes nothing to the fact that there  
18 were a hundred ways to request that application without ever  
19 involving the house whatsoever. 20 acres is not a large farm.  
20 And the beginning farmer loan program was established  
21 additionally and has special treatments specifically to get  
22 people involved again in farming. It is designed to help  
23 people reach commercial viability.

24 We spent five years and our money struggling to bring  
25 that place back up. And I've got a question for everybody in

1 this room: How many of you have ever gotten out and trenched  
2 with a shovel a 5,000-square-foot house? How many of you have  
3 formed concrete with your own two hands?

4 THE COURT: You're getting off point, Mr. Julian.

5 MR. JULIAN: No, I'm not. I built this house with my  
6 own two hands from the ground up.

7 THE COURT: If I tell you you're getting out of  
8 order, you're getting out of order. Don't argue with me.

9 MR. JULIAN: Okay. Fine.

10 But I built that place with my own two hands, and two  
11 farmhands, who I was giving employment to. Rural development  
12 is about creating new business in small rural developments and  
13 providing jobs. And you afford a *Chevron* deference to these  
14 gentlemen who didn't know how to do their job, hadn't been  
15 trained to do their job, took to executing fraud to avoid  
16 doing their job, and then they went out, created fraud to  
17 avoid the fact that they hadn't done their job.

18 THE COURT: I don't know about the --

19 MR. JULIAN: And then they committed perjury to cover  
20 it all.

21 THE COURT: There you go again, charging people with  
22 crimes you have absolutely no proof of.

23 MR. JULIAN: I do have absolute proof of.

24 THE COURT: You may have to defend --

25 MR. JULIAN: I gave you the proof. I gave you

1 100 percent proof.

2 THE COURT: Mr. Julian, shut up. You're charging  
3 these people with criminal conduct, and that's what you were  
4 here on the show cause for. Why they haven't brought a libel  
5 action against you, I don't know, but certainly they have very  
6 good grounds to do it.

7 MR. JULIAN: Sir, I gave this Court a hearing tape  
8 and the evidence that proves those allegations, and I gave you  
9 details outlining exactly where on those tapes that occurred.  
10 And there's -- we didn't even bring up all of them. There's  
11 multiple more. I'm happy to prove them in a court of law.  
12 That's what I asked for to start with. Let me put it in front  
13 of a jury.

14 THE COURT: Response, Mr. Padmanabhan?

15 MR. PADMANABHAN: Briefly, Your Honor.

16 MR. JULIAN: Oh, one more thing. I had one more  
17 comment, I want to make sure it gets out here.

18 You talk about the director reviewed this  
19 information. He can't actually review what they said. He has  
20 to accept their interpretation. That's in his rule book.

21 THE COURT: Who does?

22 MR. JULIAN: The director.

23 THE COURT: The lawyer?

24 MR. JULIAN: The director and the hearing officer  
25 have to accept whatever these gentlemen determine, even if

1 they've never been trained on it.

2 THE COURT: All right, sir.

3 MR. PADMANABHAN: Thank you, Your Honor.

4 I want to address a large portion of what Julian --  
5 Mr. Julian said, because I think he is attempting to  
6 relitigate issues that this Court decided in our last motion  
7 to dismiss hearing, dismissing charges of his due process  
8 violations and a bunch of other constitutional claims that the  
9 Julians made.

10 But one thing I will say, Your Honor, is that the  
11 Julians applied for their loan in 2012. The procedures were  
12 not changed after that happened. The procedure -- the  
13 regulations in effect at the time the Julians applied for a  
14 loan remained in effect. It may have changed after they  
15 started building their process -- or building their structure.  
16 But it cannot be that a structure that was built, for example,  
17 in 1900, and they apply for a loan in 2012, that they have to  
18 look back to the rules in 1900 to see if their loan would  
19 qualify. At the time they applied for their loan, there were  
20 certain procedures in place, and those procedures did not  
21 change. And they were told from the very first denial letter  
22 what the requirements were, and those requirements were  
23 reiterated over and over to the Julians at the hearing stage,  
24 at the administrative appeal, and in front of this Court. So  
25 those rules did not change.

1           In addition, in terms of accusing people in this  
2 courtroom of negligence in doing their job, that's not before  
3 this Court. This Court already ruled on that. The issue is  
4 whether Director Klurfeld's determination is arbitrary,  
5 capricious, or unsupported by the law. And we have provided  
6 evidence to support Director Klurfeld's decision.

7           And the Julians' assertion that he just must accept  
8 what people did, such as Mr. King, what they did, is just not  
9 true -- the hearing officer, Mr. King, did is just not true,  
10 because Director Klurfeld looked at the two bases for denying  
11 the loan. He only addressed one of them. He said, "I don't  
12 need to reach the second one because I find that he was  
13 correct on this one."

14           And Mr. King, the hearing officer, when he issued his  
15 decision, he didn't just accept what was done before him,  
16 because he said, "I find one of these factors" -- there were  
17 three original factors denying the loan. He found that one of  
18 them was not supportable by the evidence, and so he overruled  
19 that one, and he affirmed the other two bases for rejecting  
20 their loan. So he didn't simply accept what the agency did on  
21 the front line. He did his own analysis, and Director  
22 Klurfeld did the same thing.

23           Thank you, Your Honor.

24           THE COURT: All right. We'll give you a decision in  
25 writing.

1 Word of caution to you, Mr. Julian, you better be  
2 careful about what you post on the Internet. You may be back  
3 before this Court on a contempt charge. Word to the wise.

4 Let's adjourn court.

5 (Court recessed at 3:34 p.m.)  
6

7 CERTIFICATE

8 I, Judy K. Webb, certify that the foregoing is a  
9 correct transcript from the record of proceedings in  
10 the above-entitled matter.  
11

12 /s/ Judy K. Webb

Date: 10/7/14  
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